

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed April 16, 2009. At the time of the Office Action, Claims 1-5, 25 and 27-33 were pending in the Application and stand rejected. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 103 Rejection

The Examiner rejects Claims 1-3, 26-29 and 32-34 under 35 U.S.C. §103(a) as being anticipated U.S. Publication No. 2002/0107843 issued to Biebesheimer (hereinafter "*Biebesheimer*") in view of U.S. Patent No. 6,978,297 issued to Piersol (hereinafter "*Piersol*") and further in view of U.S. Publication No. 2005/0021715 issued to Dugatkin (hereinafter "*Dugatkin*"). The Examiner also rejects Claims 4 and 30 under 35 U.S.C. §103(a) as being unpatentable over *Biebesheimer* in view of *Piersol* in view of *Dugatkin* and in further view of U.S. Patent No. 7,185,192 issued to Khan (hereinafter "*Khan*"). The Examiner further rejects Claim 5 and 31 under 35 U.S.C. §103(a) as being unpatentable over *Biebesheimer* in view of *Piersol* in view of *Dugatkin* and in further view of Microsoft Outlook 2000(c) 1995-2000 (hereinafter "*Outlook*").

Applicant respectfully reminds the Examiner that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior reference (or references when combined) must teach or suggest all of the claim limitations.¹ It is respectfully submitted that the rejected claims are patentable over the art of record based on at least the third criterion of obviousness: none of the references alone or in combination teach, suggest, or disclose each claim limitation of the Independent Claims.

¹ See M.P.E.P. §2142-43.

In regards to Independent Claim 1, the Examiner's main reference *Biebesheimer* has an inherent shortcoming; it fails to disclose capturing information. Independent Claim 1, as previously amended, outlines (*inter alia*) "...presenting a graphical user interface (GUI) for a capture system...including...a search editor view to enable parameters of a search of tags of objects captured by the capture system to be defined...a capture rule view to enable parameters of the capture rule to be defined." It appears as though the Examiner has confused 'reception' with 'capture' in that *Biebesheimer* does not capture packets. This is a fundamental distinction in how the two architectures operate. Moreover, Independent Claim 1 specifies how a ***capture rule defines which of the objects should be captured by the capture system***. Inherent in such a teaching is the notion of ***selectively capturing*** items in the system: not capturing everything in the system. This stands in contrast to the system of *Biebesheimer*.

As a completely separate matter, the Examiner glossed over the previously raised arguments of Applicant. Specifically, no reference of record provides for "...a search editor view to enable parameters of a search of tags of objects captured by the capture system to be defined, the capture system configured to *intercept* data from data streams, *reconstruct* the data, and *store* network transmitted objects according to a capture rule that defines which objects are to be captured by the capture system..." No reference actually *intercepts data from data streams*. Note that *intercept* in such a context connotes accessing the data stream by an entity [*i.e.*, the capture system] for which the data stream was not necessarily intended. Second, no reference *reconstructs that same data*. At the passages cited by the Examiner for potentially relevant discussions related to these limitations, there is simply nothing that discloses these capabilities. Again, these important limitations are provided for in Independent Claim 1, but no reference of record includes such elements. Applicant has reviewed *Biebesheimer* and *Piersol* in their respective entireties and finds nothing that would be relevant to such operations.

For at least these reasons, Independent Claims 1 and 27 are allowable over the cited references. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons. For at least these reasons, all of the pending

ATTORNEY DOCKET NO.
06897.P006
Confirmation No. 8851

PATENT APPLICATION
10/816,422

claims have been shown to be allowable as they are patentable over the references of record.
Notice to this effect is respectfully requested in the form of a full allowance of these claims.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

No additional fees are believed due. However, please apply any other charges or credit any overpayment to Deposit Account No. 50-4889 of PATENT CAPITAL GROUP, referencing the attorney docket number referenced above.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at (214) 823-1241.

Respectfully submitted,

Patent Capital Group
Attorneys for Applicant

/Thomas J. Frame/

Thomas J. Frame
Reg. No. 47,232

Date: July 6, 2009

Customer No. 78855